THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23547 OF 2003

28-07-2005

Between:

Donkana sambasiva Rao alias Sambaiah, S/o Rama Rao,

R/o Opp.Yadav High School, Old Guntur, Guntur Dist.

... PETITONER

AND

The Secretary, Home Department, Government of A.P., Secretariat Buildings, Hyderabad and others

.....RESPONDENTS

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ORDER:

The petitioner is resident of Guntur. It is his grievance that there is a dispute between his son and his creditors. In that connection though no crime is registered against the petitioner or his son, the respondents are interfering in the civil dispute and called the petitioner to the police station very often. It is also alleged that he was taken from his residence to the Office of the Superintendent of Police and ill-treated. He also alleged that police constable bet him and was detained for four days.

Counter affidavit is filed by the Sub-Inspector of Police, the third respondent herein, denying the petition averments. It is further stated that the police are not interfering in the civil dispute between the petitioner and third parties and that the respondents 2 and 3 are not aware of any such disputes, as there is no complaint alleged against the petitioner and his son. The petitioner has not filed any reply affidavit denying the counter averments.

The learned counsel for the petitioner placed reliance on two judgments delivered by this Court in **S.Masthan Saheb v P.S.R. Anjaneyulu** and **J.Lakshmi @ Lakshmamma v Commissioner of Police, Vijayawada.**

In **J.Lakshmi @ Lakshmamma v Commissioner of Police, Vijayawada** (supra), after referring to the judgment in **S.Masthan Saheb v P.S.R. Anjaneyulu** (supra) as well as the code of conduct for police, this Court laid down as under.

> The Supreme Court has repeatedly held that when the dispute is purely of civil nature, the jurisdiction under Art.226 of the Constitution cannot be exercised. The Supreme Court also repeatedly laid down that when the dispute between the two citizens is of civil nature and no crime is registered, police have no jurisdiction to interfere in the civil dispute. Further, when there is a civil litigation either before the court of law or before the tribunal, the police have no jurisdiction to interfere in the civil dispute. Further, when there is a civil litigation either before a court of law or before a tribunal, the police cannot interfere and even if a complaint is made in relation to such dispute pending in a civil court, the citizens have to be advised to resolve the dispute through a duly constituted court of law.
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> In the scheme of the Constitution of India, the duty to resolve civil disputes is entrusted to judiciary. Police have no such power. Any interference by police in a pending civil dispute or a potential civil dispute between citizens or two groups of citizens is not within the province of the police. Furthermore, if a cognizable offence is reported to the police, it is the duty of the police to register the crime under Section 154 of the Code of Criminal Procedure, 1973 (Cr.P.C) and take up investigation immediately. In a given case, even if a civil dispute, to say a land dispute, is pending before a civil Court and if the quarrel between the two warring parties has a potential of resulting in a law and order problem posing threat to the society at large, the police can always take up the case only after registering the crime under Section 154 Cr.P.C. Without registering the crime and without any reason the police cannot interfere.

The Learned Government Pleader does not dispute the legal position. Therefore, this writ petition is disposed of directing the respondents not to interfere in the civil disputes, if any, between the petitioner and his creditors.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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(V.V.S.RAO,J)

28.07.2005.

pln